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10 Attorneys for Plaintiff, DataQuill Limited, a British Virgin Islands Company

11
12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 **DATAQUILL LIMITED,**

15 Plaintiff,

16 v.

17 **HIGH TECH COMPUTER CORP.,**

18 Defendant.

Case No.

08 CV 0543 IEG LSP

**COMPLAINT FOR PATENT
INFRINGEMENT**

19
20 1. This is an action for patent infringement arising under 35 U.S.C. § 271. This Court
21 has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 (federal question) and 1338(a)
22 (patent).

23 2. Plaintiff DataQuill Limited is a limited company organized under the laws of the
24 British Virgin Islands. DataQuill owns an exclusive right, title and interest in United States Patent
25 No. 6,058,304, entitled "Data Entry System," issued May 2, 2000 in regard to this action; and United
26 States Patent No. 7,139,591, entitled "Hand Held Telecommunications and Data Entry Device,"
27 issued November 21, 2006 (collectively referred to herein as "the patents in suit"). DataQuill has
28 standing herein to sue for infringement of the patents in suit.

3. Defendant High Tech Computer Corp. ("HTC") is a corporation organized under the laws of the Republic of China, with executive offices at 23 Hsin Hua Rd., Taoyuan 330, Taiwan, R.O.C.

4. HTC offers accused products for sale to customers in this District at least via its web site, e.g., via www.america.htc.com, with links for products to “Buy Now”.

5. The web sites, www.htc.com and related site www.america.htc.com are registered to HTC.

6. On information and belief, after reasonable opportunity for further discovery, the evidence will likely support and confirm that HTC, through employees, distribution companies and/or agents, imports, offers for sale, and/or sells in the United States, and in this judicial district, products alleged herein to infringe claims of the '304 patent and '591 patent.

7. This Court has personal jurisdiction over HTC because it has established minimum contacts with the forum, at least as alleged above in Paragraphs 4 to 6. The exercise of jurisdiction over HTC would not offend traditional notions of fair play and substantial justice.

8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(d) because HTC is an alien that may be sued in any district.

COUNT I – PATENT INFRINGEMENT

9. On information and belief, after reasonable opportunity for further discovery, the evidence will likely support and confirm that HTC, for instance through its employees and/or agents, has infringed and continue to infringe directly, by inducement, and/or contributorily, at least one claim of each of the '304 patent and '591 patent, for example, by acts concerning making, having made, using, selling, offering to sell, and/or importing certain mobile handset products including, for example, at least HTC's "Touch" series, 8100 series, 6500 series, and MteoR series and Pocket PC series products, among others.

10. DataQuill's allegation of infringement herein does not include at least claims 43, 54, 61 and 62 of the '304 patent.

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1 11. HTC received letters on behalf of Plaintiff notifying it of the '304 patent and/or '591
2 patent and of accused products, such letters being dated April 15, 2006, October 16, 2006, and
3 February 15, 2007.

4 12. On information and belief, after reasonable opportunity for further discovery, the
5 evidence will likely support that despite having notice of the 304 patent and '591 patent, HTC has
6 continued its infringement.

7 13. HTC's infringement has caused monetary damage and irreparable injury to DataQuill.
8 Unless and until HTC's infringement is enjoined by this Court, it will continue to cause monetary
9 damage and irreparable injury to DataQuill.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff DataQuill respectfully requests that this Court enter
12 judgment against Defendants, granting the following relief:

13 a. Award damages adequate to fully compensate DataQuill for the infringement that has
14 occurred, including prejudgment and post-judgment interest;

15 b. Award any applicable enhanced damages as supported by discovery and permitted
16 pursuant to 35 U.S.C. § 284;

17 c. Award any applicable attorneys' fees and expenses as supported by discovery of this
18 being an exceptional case pursuant to 35 U.S.C. § 285;

19 d. Permanently enjoin HTC, its direct and indirect subsidiaries, their customers, and all
20 those acting in concert or participation with them from further acts of infringement; and

21 e. Award such other and further relief as is allowed or just.

22 **JURY DEMAND**

23 DataQuill demands trial by jury on all issues so triable in this action.

24 Dated: March 24, 2008

RESPECTFULLY SUBMITTED,
HECHT SOLBERG ROBINSON GOLDBERG & BAGLEY LLP

25
26
27 By: 

Gregory S. Markow
Attorneys for Plaintiff, DataQuill Limited

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

149041 - KD

**March 24, 2008
12:42:18**

Civ Fil Non-Pris

USAO #: 08CV0543

Judge.: IRMA E GONZALEZ

Amount.:

\$350.00 CK

Check#: BC6329

Total-> \$350.00

FROM: CIVIL FILING
DATAQUILL LTD. V. HIGH TECH CO

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
 DATAQUILL LIMITED

 (b) County of Residence of First Listed Plaintiff British Virgin
 (EXCEPT IN U.S. PLAINTIFF CASES) ISLAND

 (c) Attorney's (Firm Name, Address, and Telephone Number)
 Hecht Solberg Robinson Goldberg & Bagley LLP
 600 W. Broadway, 8th Floor
DEFENDANTS

HIGH TECH COMPUTER CORP

 County of Residence of First Listed Defendant CLERK, U.S. DISTRICT COURT
 (IN U.S. PLAINTIFF CASES ONLY)

 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
 LAND INVOLVED

Attorneys (If Known)

'08 CV U543 IEG LSP

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

35 U.S.C. 271

 Brief description of cause:
 Patent Infringement
VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

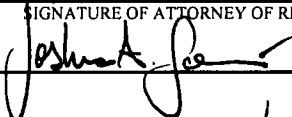
JUDGE

DOCKET NUMBER

DATE

03/24/2008

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

149041

AMOUNT

\$320

APPLYING IFP

3/24/08

JUDGE

MAG. JUDGE

CR